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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,004	10/16/2003	John Jerald Urlaub	18662	7451
22827	7590	11/30/2005	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			AUGHENBAUGH, WALTER	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 11/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,004

Applicant(s)

URLAUB ET AL.

Examiner

Walter B. Aughenbaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6 separate IDSs.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group III, claims 23-31 and 33 in the reply filed on September 13, 2005 is acknowledged.

Information Disclosure Statement

2. The WO 02/49559 reference that is listed in the Form-1449 filed March 4, 2004 could not be located in the IFW file.

Specification

3. The abstract of the disclosure is objected to because it should be directed to the invention which Applicant has elected (the abstract is directed to solely a "method for neutralizing odor" whereas Applicant elected a group of article claims. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 23-31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Handjani et al.

In regard to claim 23, Handjani et al. teach a packaged product comprising a product (cosmetic) that is enclosed within packaging material (container in which the cosmetic is necessarily stored) and a blend of high surface area materials (blend of at least one cosmetic

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additive or active agent including nanoparticles and nanocapsules; nanoparticles and nanocapsules are high surface area materials because they are nanoscale particles/capsules: a decrease in size of a particle/capsule results in an increase of surface area/volume ratio of the particle/capsule) (col. 1, lines 33-46 and col. 2, lines 33-55). The nanoparticles and nanocapsules are “differently modified” because they are structurally different from each other. Handjani et al. teach that the product neutralizes head space odors contained within the package because the blend is incorporated into the cosmetic that is in the package (col. 1, lines 33-46 and col. 2, lines 33-38).

In regard to claims 24, 28 and 33, Handjani et al. teach a package containing a product comprising a product (cosmetic), packaging material which encloses the product within an enclosure formed by the packaging material (container in which the cosmetic is necessarily stored) and a blend of nanoparticles contained within the enclosure (blend of at least one cosmetic additive or active agent including nanoparticles and nanocapsules) whereby as odor is generated within the enclosure, the odor is adsorbed by the blend (col. 1, lines 33-46 and col. 2, lines 33-55). In further regard to claims 24 and 33, the nanoparticles and nanocapsules are “differently modified” because they are structurally different from each other, and the nanocapsules are nanoparticles because capsules are particles. In further regard to claims 28 and 33, the nanoparticles of Handjani et al. are “unmodified” because they are characterized as “nanoparticles” and the nanocapsules of Handjani et al. are “modified” because they are “modified” to be nanocapsules.

In regard to claims 25 and 29, the blend taught by Handjani et al. is contained on an insert which is positioned within the enclosure because the blend is incorporated into a cosmetic

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composition (the cosmetic composition corresponds to the claimed "insert", col. 1, lines 33-46 and col. 2, lines 33-38).

In regard to claims 26 and 30, the blend taught by Handjani et al. is applied to the inside surface of the enclosure (the container in which the cosmetic is necessarily stored) because the inside surface of the container is necessarily in contact with the cosmetic that is stored in the container (col. 1, lines 33-46). Containers necessarily have an inside surface and an outside surface.

In regard to claims 27 and 31, the blend taught by Handjani et al. is applied to a portion of the product (cosmetic) contained in the enclosure because the blend is incorporated into the cosmetic (col. 1, lines 33-46 and col. 2, lines 33-38).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is to 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

11/21/05

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/23/05